

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

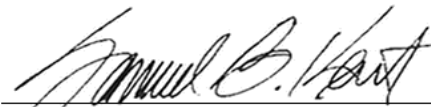
MARSHALL WELLS, #314821	§	
	§	
V.	§	CIVIL ACTION NO. G-05-558
	§	
JACKIE EDWARDS, ET AL.	§	

ORDER OF DISMISSAL

Before the Court for its Order of Acceptance is a Report and Recommendation of the United States Magistrate Judge, entered on October 31, 2005, which recommends that the instant case be dismissed with prejudice as time-barred. In his objections to the Report and Recommendation, Plaintiff asserts that the instant suit, which had previously been filed in 2000, was dismissed pursuant to a voluntary dismissal in 2003 and should not, therefore, be affected by statutory limitation law. An action dismissed without prejudice does not toll the statute of limitations. *See Beck v. Caterpillar Inc.*, 50 F.3d 405 (7th Cir. 1995). Plaintiff's objections are without merit.

After *de novo* review pursuant to 28 U.S.C. §636 (b)(1)(C), this Court is of the opinion that the Report and Recommendation of the Magistrate Judge should be, and it is hereby, **ACCEPTED** in its entirety and incorporated by reference herein. It is the **ORDER** of this Court that this cause is **DISMISSED** with prejudice as time-barred.

DONE at Galveston, Texas, this the 1st day of December, 2005.



Samuel B. Kent
United States District Judge